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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

PAUL DURAN, Derivatively on Behalf of  
PUMA BIOTECHNOLOGY, INC..

Case No. 2:18-cv-04802-AG (DFMx)

**STIPULATION AND  
[PROPOSED] ORDER OF  
VOLUNTARY DISMISSAL WITH  
PRE-JUDICE**

ALAN H. AUERBACH, CHARLES R.  
EYLER, THOMAS R. MALLEY, JAY M.  
MOYES, TROY E. WILSON, FRANK  
ZAVRL, and ADRIAN M. SENDEROWICZ,  
.

## Defendants

-and-

PUMA BIOTECHNOLOGY, INC., a  
Delaware corporation

## Nominal Defendant

1 Plaintiff Paul Duran (“Plaintiff”), Defendants Alan H. Auerbach, Charles R.  
2 Eyler, Jay M. Moyes, Troy E. Wilson, Adrian M. Senderowicz, Frank Zavrl, and  
3 Thomas R. Malley (the “Individual Defendants”) and Nominal Defendant Puma  
4 Biotechnology, Inc. (“Puma,” and collectively with Plaintiff and the Individual  
5 Defendants, the “Parties”), through their respective counsel of record, submit this  
6 stipulation and proposed order.

7 WHEREAS, on May 30, 2018, Plaintiff filed a shareholder derivative  
8 complaint, on behalf of Puma, commencing this action against the Individual  
9 Defendants;

10 WHEREAS, parallel derivative actions have been proceeding against the  
11 Individual Defendants: *Van der Gracht de Rommerswael v. Auerbach, et al.*, Case  
12 No. 8:18-cv-00236-AG-JCGx, pending in the USDC for the Central District of  
13 California, filed February 9, 2018 (the “Rommerswael Action”); *Xie v. Auerbach, et*  
14 *al.*, Case No. BC616617, pending in the Superior Court for the State of California,  
15 filed April 12, 2016 (the “Xie Action”); and *McKenney v. Auerbach, et al.*, Case No.  
16 BC617059, pending in the Superior Court for the State of California, filed April 14,  
17 2016 (the “McKenney Action,” and collectively with the Xie Action, the “State  
18 Actions”);

19 WHEREAS, on September 28, 2018, the Parties entered into a Stipulation of  
20 Settlement which was filed in the Rommerswael Action (the “Settlement”) (attached  
21 hereto as Exhibit 1). The Settlement resolved claims asserted in the four related  
22 shareholder derivative actions filed on behalf of Puma, including the claims asserted  
23 in the instant action;

24 WHEREAS, the Settlement is expressly conditioned on the dismissal with  
25 prejudice of all other related derivative actions, including this action;

26 WHEREAS, on November 5, 2018, Judge Guilford entered an order  
27 preliminarily approving the Settlement which was filed in the Rommerswael Action;

WHEREAS, on January 7, 2019, after notice and hearing, Judge Guilford entered an order and judgment finally approving the Settlement (attached hereto as Exhibit 2);

WHEREAS, the Parties have met and conferred and agree this action should be dismissed with prejudice in accordance with the Settlement, with all Parties waiving all rights to appeal from or with respect to any aspect of this action;

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by the Parties hereto, through their undersigned counsel, pursuant to Rules 23.1(c) and 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure and subject to the Court's approval, that:

1. This action shall be dismissed in its entirety with prejudice, with all Parties waiving all rights to appeal from or with respect to any aspect of this action; and

2. Except as otherwise provided in the Settlement, each Party shall bear his or its own costs, fees, and expenses, including attorneys' fees.

## IT IS SO STIPULATED.

Respectfully submitted,

Dated: February 28, 2019

THE ROSEN LAW FIRM

/s/ *Laurence M. Rosen*

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*Liaison Counsel for Plaintiff Duran*

1 Dated: February 28, 2019

THE BROWN LAW FIRM, P.C.

2 /s/ Timothy W. Brown

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8 *Counsel for Plaintiff Duran*

9

10 Dated: February 28, 2019

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25 *Counsel for Defendants Alan H.  
Auerbach, Charles R. Eyler, Thomas R.  
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Frank Zavrl, Adrian M. Senderowicz,*

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4  
*and Nominal Defendant Puma  
5 Biotechnology, Inc.*

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**ATTESTATION OF FILER**  
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8  
All signatories listed, and on whose behalf the filing is submitted, concur in the  
9 filing's content and have authorized the filing.  
10

11 Dated: February 28, 2019  
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13 /s/ Colleen C. Smith  
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15 Colleen C. Smith  
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